



New York Association of Convenience Stores
231 Delaware Avenue, Delmar, NY 12054

TELEPHONE: (800) 33-NYACS or (518) 478-0560

FAX: (518) 478-0458

TO: Federal Communications Commission

FROM: Jim Calvin

DATE: July 30, 2003

RE: Proceeding #02-278

As the chief executive of a private, 501-c-6 trade association, I'm having trouble grasping the logic of part of the new rules governing unsolicited fax advertisements.

If I understand correctly, an association like ours will be forbidden from sending faxes to its own members announcing events and programs unless we obtain prior written permission from each member in advance.

Here is our statement of purpose:

"NYACS is a progressive, member-driven organization that leads, safeguards, and forges a favorable environment for New York State's diverse, dynamic community of neighborhood convenience stores. NYACS provides return on membership investment by continuously delivering vital knowledge, a unified voice on legislative and regulatory issues, access to business solutions, and ways for members to share ideas, address common challenges, and build relationships."

When we fax members a notice of our upcoming Legislative Issues Day in the state capital, we are inviting their participation in "a unified voice on legislative and regulatory issues" in fulfillment of our mission.

When we fax our members a reminder of our upcoming annual Trade Show and Convention, we are offering them an opportunity to "share ideas, address common challenges, and build relationships" in fulfillment of our mission.

When we fax our members a flyer about an association-sponsored program that can save them money on credit card processing equipment and services, we are giving them "access to business solutions" in fulfillment of our mission.

If we were to send members faxes advertising generic Viagra or secret investment opportunities, that would not only fall outside the scope of our mission, but it would alienate our members to the point that they would cancel.

Membership in our association is purely voluntary. Those who join *demand* regular updates on matters relevant to our industry. We periodically ask them whether they prefer receiving communications via fax, mail or e-mail, and that seems to work fine.

It defies common sense to require that a legitimate trade association whose members join voluntarily in order to gain the benefit of regular communication about industry events, programs, and issues must obtain prior written consent from each member each time such pertinent information is to be delivered by fax.

The "established business relationship" exception should be restored to the regulation.

Respectfully,

James S. Calvin
President